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PROVISIONAL SUMMARY RECORD OF THE SECOND MEETING

Held at the Parque Central, Caracas,
on Thursday, 11 July 1974, at 10.40 a.m.

Chairman: Mr. ENGO (United Republic of Cameroon)

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STATEMENTS ON THE INTERNATIONAL REGIME AND MACHINERY

[illegible] (German Democratic Republic), after congratulating the Chairman on his election, said that the exploration and exploitation of the sea-bed and its subsoil should be carried out in accordance with the basic principles of international law in the interests of all peoples and exclusively for peaceful purposes.

It followed from the basic principles of international law that the régime of the international sea-bed should not affect the legal régime of the superjacent water and air space which were a part of the high seas, and that each State had the sovereign right to share in the exploration and exploitation of the sea-bed and its subsoil. The geographical situation of a State should by no means serve as a pretext for any differences in the treatment of member States of the sea-bed organization. He hoped that the provisions stating that the sea-bed would be used for the benefit of mankind as a whole, with special consideration for the needs of the developing countries, would help to overcome to a certain extent the economic, scientific and technological differences between countries, which was one of the most regrettable legacies of colonialism.

The concept of the common heritage of mankind could be defined only in relation to the basic principles of international law and the other principles laid down in General Assembly resolution 2749 (XXV), and it implied respect for the following principles: no State should be allowed to exercise sovereignty over any part of the international sea-bed or its subsoil; a State could acquire rights of property only over mineral raw materials which had been extracted; all States should have the same rights in the exploration and peaceful utilization of the sea-bed and its subsoil; the interests of the developing countries, land-locked States and other geographically disadvantaged States should be duly taken into account; States should be held responsible for activities not in accordance with the norms of a future convention on the law of the sea. No State or group of States should be allowed to derive one-sided advantages from an international legal regulation of the utilization of the resources of the sea-bed and its subsoil; lastly, the traditional uses of the high seas, such as free navigation and overflight, the right of each State to lay cables and pipelines

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(Mr. Wuensch, German Democratic Republic)

in the high seas, and the option to carry out scientific research, should not be restricted.

His delegation supported the establishment of an international sea-bed organization whose main functions would be to co-ordinate the activities of States in the international area, to make the scientific results of those activities accessible to all States, to organize at the international level the exchange of experience and transfer of technology and, in particular, to assist the developing countries in undertaking research and exploitation activities. The organization should also be responsible for ensuring the equitable distribution of the mineral resources, with special regard to the interests of the developing countries. All States parties to the Convention on the Law of the Sea should, of course, also be able to become members of the organization. His delegation supported the participation of national liberation movements recognized by regional organizations. Co-operation of other intergovernmental organizations with the sea-bed organization should be regulated in co-ordination agreements concluded in accordance with international public law.

With regard to the structure of the sea-bed organization, he recommended the establishment of a general assembly, a council and a secretariat. The assembly would deal with the fundamental questions regarding the exploitation of the resources and the general rules for the prevention of pollution and with all matters connected with the implementation of the statute of the sea-bed organization, and it would make relevant recommendations. Due account should be given, in constituting the council, to the principle of the sovereign equality of States, equitable geographical representation and the interests of all States and groups of States. The council would co-ordinate the activities of States in the exploration and exploitation of the mineral resources, make available scientific knowledge, prepare draft conventions on problems of exploration and exploitation, prepare budget estimates and submit reports to the assembly on its activities. The council should also be entitled to conclude agreements with the United Nations, other intergovernmental organizations and States on behalf of the sea-bed organization and following deliberation in the general assembly. Consideration could also be given to attaching a commission to the council which would deal with the granting of licences for exploitation and prepare

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the decisions of the council. Licence contracts should be concluded in accordance with international law between the sea-bed organization and one or more States and should regulate the following: delimitation of the part of the sea-bed and its subsoil to be exploited; maximum amount of minerals to be exploited; duration of exploration and exploitation; modalities and the maximum amount of payments in cash or in kind by the exploiting State; participation of nationals of developing countries in research and extraction for the purpose of training, and responsibility for damages arising in connexion with exploration and exploitation. Legal and natural persons should be allowed to share in the exploration and exploitation of the mineral resources of the sea-bed and its subsoil only on behalf of and under the responsibility of the State or group of States which had concluded the contract with the sea-bed organization. Thus, in a relatively short period of time comprehensive estimates could be made of mineral resources, States could exercise the right to exploit for only a limited period, in a limited area, a limited quantity of minerals, the interests of all States, particularly developing countries, would be taken into account through revenue-sharing and the training of specialists, the sea-bed organization would be able to regulate the amounts extracted and the distribution of revenues and, in the case of contracts concluded with States whose international responsibility would be expressly stated, national and transnational monopolies would be prevented from using licences to gain maximum profits.

His delegation was prepared to participate actively and constructively in seeking solutions agreed to by all participating States. It would present its comments on various questions under consideration as the work of the Committee proceeded.

Mr. PINTO (Sri Lanka), after recalling the part played by the representative of the United Republic of Cameroon as Chairman of Sub-Committee I of the Sea-Bed Committee, expressed his satisfaction at seeing him Chairman of the First Committee and pledged his full co-operation with the members of the General Committee.

The principal issues before the Committee related either to the fundamental principles of the international régime or to the structure and functions of the international authority. In considering the first of those two problems, the Committee would have to define the limits of the area of the sea-bed beyond national jurisdiction. Three different definitions of those limits were included in the alternatives of

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article I of the text annexed to the report of Sub-Committee I of the Sea-Bed Committee (A/9021, volume II, page 51). It was perhaps still too early to try to reconcile the national jurisdiction claims of coastal States and the objections that had been raised to those claims, and it would be easier to reach a compromise if the Committee reached agreement on two related question: (1) to what extent and under what conditions land-locked States and States which considered themselves geographically disadvantaged might be permitted to explore and exploit the area under the jurisdiction of coastal States; (2) whether a coastal State whose continental margin extended beyond the limits of the area under its jurisdiction might be willing to share with the international community the resources and other benefits of the area between the outer limits of its own area and the edge of the continental margin. In considering the first of those two questions, the Committee would also have to consider activities regarding exploration and exploitation considered from three different viewpoints in the alternatives of articles 3, 7, 13, 14 and 15, and it would also have to deal with scientific research covered in article 11. The same divergence of views was to be found on the question of scientific research as on activities regarding exploration and exploitation. While some States advocated freedom of scientific research, others felt that it should be subject to certain controls. Perhaps those who advocated maximum freedom for scientific research and those who advocated the minimum of controls might be able to reach a compromise. He also suggested that the expression "scientific research" should be defined as detailed observation and analytical activity which had as its sole objective a better understanding of the nature and characteristics of the area and its resources and of the physical environmental factors.

Another problem concerning principles which arose for land-locked States and geographically disadvantaged States was that of the right of access to and from the area. The convention should specify that the exercise of that right would be the subject of negotiation and agreement between the States concerned, and it should also define the expression "geographically disadvantaged States". There would seem to be few States that were not disadvantaged in some way; only an island with a gradually sloping continental or insular shelf extending in all directions to a distance of 200 nautical miles, with no neighbouring State closer than 400 nautical miles, could

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claim not to be disadvantaged. Without making light of the difficulties faced by the States he was referring to, he drew the attention of the Committee to the need to define that expression. A transit State with access to the sea might have considerably less resources than a land-locked State and might try to use its geographical advantage to redress what it might well regard as a "geological" disadvantage. The interests of different countries should be reconciled by granting to land-locked States the right of transit and then providing that the modalities of the exercise of that right should be worked out in direct bilateral negotiation.

Turning to the second problem, the problem of the organization itself, he said that the Committee should take account of the fact that the sea-bed and ocean floor beyond national jurisdiction and the resources thereof constituted the common heritage of mankind, and that the area and its resources should be explored and exploited in the interests of mankind as a whole, particular consideration being given to the needs of developing countries. The Committee should also bear in mind that the technology and financial resources needed to exploit the area and its resources and to make full use of the data and raw materials derived from such activities were at the present time in the possession of very few States and very often in the hands, not of State enterprises, but of private enterprises. Those enterprises should therefore be given, in addition to the necessary funds, the chance to develop, for they would be acting as agents of the international community. The ocean floor might contain limitless wealth, but at the present time all that was known was the presence of primarily manganese nodules, and it was the exploitation of those nodules that should be planned at the present time. The investment required for the commercial exploitation of the nodules could amount to about $500 million. Consequently, a system should be devised to encourage or compel those who had the means to exploit the wealth for the good of mankind as a whole, subject to controls to ensure that all peoples would receive their legitimate share of the benefits, that the resources were exploited rationally and without damage to the environment, and that States were secure against any adverse economic effects of such exploitation.

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The Committee had also to take a decision on which system it would adopt; three systems had been suggested, all providing for the establishment of a new international organization. Those who supported the first system conceived of the new organization as an administrative authority empowered to issue licences for exploitation to States or private entities and to establish general rules providing for safe and rational exploitation. Proponents of the second system contemplated an organization with wider powers, entitled not only to issue licences but also to explore and exploit resources with its own funds, equipment and personnel. Under the third system that had been proposed, an enterprise with a monopoly on sea-bed exploration and exploitation would be established as an arm of the new organization. At first sight, the proposed systems seemed very different but, on reflection, the similarities in essentials were striking. The sea-bed would be explored and exploited by entities which already possessed the necessary technology and financial resources under arrangements in writing to ensure distribution of revenues and other benefits among the members of the international community, to ensure safe and rational exploitation, to protect the environment and, perhaps, to minimize the economic effects caused by the fluctuation of prices of raw materials recovered through sea-bed exploitation. The main difference between the systems related to the degree to which the new organization would control the activities of the entity carrying out exploration and exploitation. The Committee should concentrate on that point as soon as possible to try to gain a clear idea of what the different views were and to reconcile them.

All the proposals concerning the structure and functions of the various organs that had been submitted to the Sea-Bed Committee and were now before the Conference envisaged that the new organization would have at least four principal organs: a plenary organ composed of all States parties to the constituent instrument, an executive organ with restricted membership, an operational organ, and a secretariat. There were different views on the powers and functions to be assigned to the plenary organ or assembly and the executive organ which could tentatively be called the council. Those different views were reflected in the alternative formulations of articles 34 and 36 and referred basically to the location of executive power. The composition of the council was another basic problem that the Committee must consider. If the council could be constituted in such a way as to reflect accurately the different

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political alignments and relative numerical strengths within the assembly, there would be no need to fear that it would be dominated by special interests acting in the name of technological or administrative efficiency. Account should also be taken, however, of the fact that those who for the time being controlled the technology and resources required for sea-bed exploitation could claim to play a special role in the executive organ. One of the most important tasks facing the Committee would be to achieve an internal balance among those different considerations in constituting the council, while keeping a balance between the powers and functions of the council on the one hand and of the assembly on the other.

Among the powers and functions proposed for the assembly were provisions in article 32 entitled "Safeguarding the interests and needs of mineral-producing States". That question should be given detailed consideration on the basis of the excellent study prepared by the Secretariat (A/CONF.62/25).

With regard to the very important question of a system for settling disputes between member States, between a State and the organization, between the organization and an entity engaged in operations on the sea-bed, between one or more such entities and between a State and any such entity which was not its national, it was clear that agreement on a system for settling disputes of a technical or legal nature would greatly facilitate negotiations. Regardless of whether one supported the idea of a permanent tribunal or some other formula, it would be worthwhile making an effort to reach agreement on that point.

Mr. LOOMES (Australia) agreed with the President and others who had spoken at the previous meeting that it was essential that States wishing to do so, and particularly States that had not been members of the preparatory Committee, should have the opportunity of explaining their views on the matters before the Committee. At the same time his delegation hoped that the discussion would be directed in the main towards identifying the important problems confronting the Committee and setting forth opinions as to their solution so as to create a basis for transition into a subsequent phase in which the different views could be narrowed and reconciled. Accordingly the Australian delegation now proposed to discuss its attitude to the structure of the international sea-bed authority.

It was a widely shared view that that authority should consist of an assembly,

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a council, an operating arm and a secretariat, together with a mechanism for settling disputes. The powers and functions of those organs should be set out clearly in the proposed convention which must also include certain rules and regulations relating to the exploration and exploitation of the area. Those were the Committee's priority tasks, and they would remain essential whether operations were undertaken directly by the authority, on a joint enterprise basis, through service arrangements, by licensing or by any of the variations which might be agreed upon.

His delegation would prefer a system in which the functions of each of the major organs were defined and their interrelationship established in a convention. Above all, the authority must be so constituted and organized as to function effectively unhampered by unnecessary institutional constraints.

The assembly should be a universal body comprising representatives of all States parties to the convention, in which each State had one vote. It should have the right to discuss any matter within the scope of the articles relating to the régime and to the machinery and organs thereof. It could also have the following specific functions, which were not necessarily exhaustive, to be exercised on the recommendation of the council: to appoint a secretary-general; to adopt the financial regulations and budget; to fix contributions to the administrative budget; to approve major arrangements in regard to exploration and exploitation; and to adopt rules for the equitable sharing of benefits.

The council should be responsible for formulating the policies of the authority, and should recommend them to the assembly. It should also have a duty of supervision in order to ensure that the provisions set out in the convention concerning exploration and exploitation and related matters were followed. The composition of the council should adequately reflect the preoccupations of all interest groups among parties to the convention. Although his delegation still had an open mind on that point, it was attracted to the formula presented the previous year to the effect that the council should have about 36 members, of whom an agreed number would be elected by the assembly and the rest would become members on the basis of various criteria, so as to include, for example, some representatives from technologically advanced States, some from coastal States and some from land-locked States, with due regard to the principle of equitable geographical distribution.

The Australian delegation considered that the operating arm would be central and

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critical to the effective functioning of the authority as a whole. The challenge was to gain widespread agreement to the provisions regulating the exploration of the area and the exploitation of its resources, the conditions under which those provisions would be applied, and above all the machinery for making and administering the vitally important decisions under those headings. Basic differences of view had become apparent during the preparatory work for the conference. If progress were to be made, those differences had to be discussed and understood and then defined and resolved. That was a priority task for the Committee. The leader of the Australian delegation had set out his country's approach to that question in his statement to the 25th plenary meeting of the Conference, in which he had said that the agency should not merely be a regulatory or licensing authority, but should be empowered to enter into other contractual arrangements with States and also to undertake exploration and exploitation on its own behalf when it had accumulated the necessary resources and experience.

His delegation believed that it was essential to develop a system sufficiently flexible to permit adaptation in the face of developing technology, so that an effective sea-bed authority of the 1970s would remain so in the 1980s and beyond. The approach that Australia had put forward in the plenary would serve the authority, and the nations of the world, having regard to all the interests involved. Furthermore, the necessary flexibility could be built into the system by providing the authority, within the terms of the convention, with the necessary power to adapt its methods of operation in the light of changing circumstances.

To attain that objective, it would be necessary to discuss the issues and formulate provisions consistent with the principle of the common heritage of mankind, which would ensure that the following guidelines were reflected: first, efficiency of operation, second, security of investment following the negotiation of operating agreements; third, rational management so as to ensure an appropriate flow to world markets of commodities from the deep sea-bed, having regard to the need to avoid global over-supply and also to the need to provide a reasonable return for operators, including land-based producers; and finally that such supplies should be made available at reasonable prices to as wide a range of consumer countries and peoples as possible.

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His delegation envisaged that the authority would be able to enter into a variety of contract arrangements, depending on its own advancing level of experience, on the resources available to it and on the requirements of a particular situation. It should, for example, have the power to decide whether any particular contract arrangement was preferable in regard to a particular area. For example, the authority might determine that the area in question should be exploited under a licence, and in its early years, while it was developing its own operating capacity, that might be an appropriate way to proceed.

In order to cover adequately the various issues raised by the proposals for the operating arm, the Committee should discuss in more detail such matters as criteria for opening areas to exploitation, the size and number of areas, the selection of operators, the conditions applying to joint ventures and other forms of arrangement (such as duration, programme of work, financial arrangements, reporting requirements, transfer of technology, participation of representatives of the authority, the formulation of safety and environment protection arrangements).

It had been proposed that when the operating body had acquired sufficient earned income and experience it should be able to exercise a right, subject to the approval of the council, to explore and exploit on its own behalf. The high cost of the technology required for deep sea-bed mining would probably rule out direct exploration and exploitation by the authority at the beginning.

His delegation believed that those questions should be central to the Committee's discussions and that it was desirable to start debating them as soon as possible in the interest of reaching agreement.

Mr. de SOTO (Peru) was gratified that Mr. Engo would be Chairman of the Committee and that Mr. Pinto was to chair the informal meetings. His delegation entirely approved the organization of work suggested by the Chairman and adopted by the Committee at its previous meeting. The decision to have the informal meetings undertake a second reading of the documents of the Working Group of the Sea-bed Committee was particularly welcome since it would enable delegations which had not taken part in the Committee to become familiar with the technique used, and put some order into overlapping or repetitious texts. Existing divergencies should, if possible, be narrowed down but the Peruvian delegation did not think that the Committee should spend too much time on that matter, for it might thus risk repeating the

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previous year's mistake of covering too many questions without getting to the root of the basic problems.

The Committee should, following a quick third reading of the texts proposed by the preparatory committee, concentrate on solving the basic differences concerning the régime for the sea-bed beyond the limits of national jurisdiction. Those differences concerned the régime governing activities in the area and the legal nature of the régime; they related essentially to the question who should exploit the international area, which was the first question that the Committee must try to answer.

In that connexion he stressed that his country was in favour of the creation of an international authority responsible solely for exploitation of the resources of the international area. That was the position set forth by 13 Latin American delegations, including that of Peru, in a working paper submitted to the preparatory committee in 1971 (A/AC.138/49). That position had later been taken up in the preparatory committee by the African and Asian countries.

At the other extreme was the position of various industrialized countries which with varying shades of difference were in favour of exploitation of the international area by a system of licences granted without discrimination to national or transnational firms, or to States. A variation of that method was to grant States exploitation licences for specific zones.

His delegation realized that the industrialized countries, many of which had firms capable of carrying out exploration and exploitation in the near future, were anxious to facilitate access to the area for those firms, but it did not consider that that would faithfully reflect the 1970 Declaration of Principles in the proposed convention: indeed his delegation had made it clear that a system of licences would not allow for the joint management which was the essential and perhaps revolutionary aspect of the common heritage. Moreover, the work of the Sea-Bed Committee in 1973 had shown that there was no prospect of such a system being adopted, since a large majority of States were opposed to it.

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Towards the end of the last session of the preparatory committee, however, a new trend had emerged on the part of certain industrialized States, in favour of maintaining a system of licences but accepting in principle that the authority could carry out direct exploration and exploitation in the area in association or through contracts with other legal entities. Public or private enterprises could thus operate in the area in two ways: under licence or under contract with the authority. That was merely an ingenious method of ensuring access to the area for firms, while giving superficial satisfaction to the developing countries which favoured an operational and representative authority with the necessary means of control over the area.

His delegation did not believe that such a proposal, which had been submitted as a compromise, really was a compromise between two extreme positions. The authority would obviously not survive competition from a system of licences. Furthermore, that solution would be contrary to Peru's position of principle, based on the Declaration of Principles, and would also be impracticable.

The industrialized Powers' difficulty in accepting an operational authority was due to the fact that it would mean an end to the existing international division of labour between developing and developed countries. The main overt objection to an operational authority was that it would need vast funds and technical means which were beyond its scope. That would be so if those who possessed the funds and techniques - the industrialized countries - failed to place them at the disposal of the authority. For that very reason the developing countries would be willing, without giving up their ideals, to allow bodies possessing capital and techniques to participate in the sea-bed activities until such time as the authority could assume direct responsibility for such activities. The authority's contribution to such a co-operative undertaking would be the area's resources which it possessed in the name of all mankind. The authority should, however, control operations under appropriate contracts with the participating bodies. His delegation would accept their participation only on that condition.

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There were other questions inextricably linked with the fundamental problem of the nature of the authority, such as the division of power between the authority's organs. His delegation considered that power should derive essentially from the plenary body, the assembly, in which all members would be represented. The executive body should be subordinate to the assembly. The authority should include an operating body, to be called the enterprise, which would be responsible for technical liaison with the participating bodies and for carrying out activities in the area itself. Other essential questions were the voting system and the composition of the subsidiary bodies and the executive body which could be called the council. His delegation would definitely prefer a purely democratic system. Any method deriving from the Yalta agreements, which would give preponderance to certain powerful or rich countries, would simply be incompatible with the Declaration of Principles.

His delegation had not touched on the question of the economic implications of exploiting the mineral resources of the sea-bed because it was waiting for a representative of UNCTAD to present the relevant documents prepared by that organization.

Mr. CROSBY (Canada) said that his delegation wished to renew its commitment to a strong international authority which could ensure that all questions concerning the resources of the area were resolved in the universal interest, since they were part of the common heritage of all mankind.

With respect to the type of body within the authority that would undertake decisions on exploitable mineral resources, despite differences that seemed more apparent than real one gathered that there was a consensus in favour of a body which would enter into contracts with competent entities, on behalf of the authority, for the exploration and development of the resources of the area, especially since the authority would not be in a position to act on its own at the outset.

Whether the contracts were called permits, licences, agreements or joint ventures, it was the substantive content that was important, and there would appear to be various interpretations concerning the definition of such terms.

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(Mr. Crosby, Canada)

The general expectation would seem to be that at an early stage, some benefits should flow to the authority from whatever activities might be undertaken. The cash flow would probably be relatively limited at first, but would eventually constitute an appreciable source of revenue for the development of the area. On the other hand, operators also would need assurance of a reasonable return on their investments, without which it would be difficult to envisage ventures being undertaken under the auspices of the authority.

One of the primary problems in that respect was the nature of the legal contracts between the authority and the operators. However, seeing that it would be difficult at the present stage to foresee all possibilities concerning contractual arrangements, the important point for the present was an assurance that contracts would in fact be arranged.

There was one field, however, in which regulatory requirements could be tackled straight away, and that was the supervision and control of the actual exploration and development activities. All bodies carrying out activities in the area should be subject to the same regulations designed to ensure the safety of personnel, the prevention of pollution and the optimum recovery of resources. That kind of control would require a highly effective body with a limited number of skilled personnel, but able to call on the services of consultants, thus avoiding the need for a large bureaucratic structure.

Regarding the fundamental problem of access to the international area for the purpose of carrying out exploration and development, without claiming to have all the answers, he thought it would be desirable from the point of view of resource management for the authority to reserve portions of the area, including a proportion of the areas made available to developers under contractual arrangements, part of which would be returned to the authority when the production stage was reached. The authority could then hold that part in reserve or use it. It would thus be possible to prevent monopolization of the richest sectors and ensure that later participants had an opportunity for access to those sectors. It would also be possible to envisage working or financing requirements which would help to exclude parties interested only in speculation.

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A further primary problem involved the production of minerals. Canada, which was first in world nickel production and third in world copper production, felt that it was difficult to envisage completely unregulated production: even if world-wide effects were minimal, it would be of small comfort for those countries most affected.

Mr. ILLANES (Chile) noted that the world had come a long way since the discovery, only recently, that an immense area of the globe was as yet unexploited. The work undertaken had led to the preparation of the Declaration of Principles (General Assembly resolution 2749 (XXV)), which designated the sea-bed and ocean floor beyond the limits of national jurisdiction as the common heritage of mankind, and referred to the need to establish an international régime, including an international machinery or authority, which it was now the task of the Conference to establish by means of a convention.

The concept of a "common heritage" would serve as the corner-stone of the international régime and machinery. The importance of the Declaration of Principles was both political and legal: it was political because the Declaration constituted a decision adopted by consensus by the international community, and legal because it would have major consequences for international law. The main implications of those principles were therefore apparent, and the time had come to elaborate them and translate them into an international régime and machinery.

One consequence was that any exploitation of the area must be prohibited until the international régime had been established. Another was that the exploitation of the mineral resources must not harm the interests of the developing countries, which were themselves mineral producers and exporters.

In the Sea-Bed Committee, Chile's delegation had frequently stated its views on the form which the Declaration of Principles gave to the nature of the future international régime and of the body that would have the responsibility of applying it: firstly, the Convention must be universal; it must be based on the Declaration of Principles, and must reflect the concept whereby the area and its resources were part of the common heritage of mankind; it must establish an international régime that was in keeping with the Declaration of Principles and an international machinery with powers adequate to ensure the application of the régime; secondly, the régime must be applied to the area of the sea-bed and the ocean floor beyond the limits of national

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(Mr. Illanes, Chile)

jurisdiction, and to the subsoil and resources thereof, whether mineral or living resources, or minerals existing in solution in the water column; thirdly, the régime and the machinery - which would represent the interests of mankind, as the proprietor - should exercise not sovereignty but jurisdiction over the area and its resources; the machinery should therefore control all economic and related activities in the area and regulate the process of exploration and exploitation of the sea-bed and its resources, the process of separation and concentration, and even the marketing of the minerals; it should also combat pollution and regulate scientific research. The essential aim was to ensure that the resources of the sea benefited equitably the whole of mankind; fourthly, Chile took the view that, in order to achieve that aim, the international authority entrusted with administering the régime should have flexibility and very wide powers, in order to be able to take action, to manage, to exercise control and to adapt itself to circumstances.

The draft submitted by the Latin American countries (A/AC.138/49), which in general corresponded to the African texts and to the definition submitted by the Group of 77 and read out in plenary meeting by the representative of Kenya, provided for an authority of that kind, entrusted with controlling exploration and exploitation, and empowered to undertake direct exploration to control both the whole process of marketing and the arrangements for the distribution of profits, to combat pollution and to control scientific research within the area. The authority would also be entrusted with distributing the profits, preserving the marine environment, promoting the development of the area, and undertaking planning and the transfer of science and technology. The Latin American text also provided for an 'Enterprise' that would itself be empowered to exploit the area or to call on other enterprises or establish joint companies to exploit the resources.

His country considered that such a system would enable the States concerned to participate in the various activities and would at the same time ensure effective control over the whole economic process. Under the licensing system recommended by certain delegations, there would be a risk of departing from the objectives of the Declaration by making it possible for the best part of the area and its resources to fall very quickly under the control of large consortia which would not represent the interests of the developing countries.

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(Mr. Illanes, Chile)

It was important that the future authority should be democratic and represent the international community equitably. To that end, the Latin American text provided for an assembly and a council without privileged members.

His delegation felt, furthermore, that it was very important that the Convention provisions should be clear; otherwise the exploitation of the minerals of the area would be prejudicial to the developing countries which extracted those same raw materials from the earth and depended upon the export revenue which they yielded. The General Assembly and UNCTAD had already stated their views on that point, and it was essential to establish guidelines to ensure that such cases did not occur. The criterion of 'complementarity' to which the Secretary-General referred in his report could be useful in tackling that question.

His delegation reserved its right to state its views in greater detail on that point at the appropriate stage, and wished only to add that the draft convention which had been considered and revised in second reading by the Working Group clearly reflected the main problems to be solved. The first concerned the powers of the authority, which the developing countries - as well as scientists, intellectuals and various bodies that had studied the question - felt should be broad, under a strong régime.

In connexion with those powers, the question arose as to who would exploit the area and how it would be exploited: the developing countries had replied that they wished the authority itself to assume responsibility for exploitation, either directly or by some other means to be determined by the authority itself, but still under its control; and they had declared themselves to be in favour of the "Enterprise" to which he had referred. At the same time, the question had arisen as to who would control the authority. Finally, certain delegations had sought to resolve in advance the problem of rules governing the relations between the authority and those who would undertake the exploitation of the resources of the area - a question which should not be tackled until the fundamental problems had been settled.

He considered that the Conference should concentrate on approving the principal articles of each question defined by the chapter headings, for those articles provided the outline of a plan for an international political solution or "package deal".

Except for the problem of limits, which should be settled when the recommendations of the Second Committee were available, the part of the Convention dealing with the

(Mr. Illanes, Chile)

sea-bed could be the subject of independent negotiations without the need to wait until other questions had been settled.

In conclusion, he recalled that the problem of the resources of the area had arisen when those possessing the economic and technical means for exploring and exploiting them had sought to protect their activities by means of a legal framework that would guarantee the security of their investments and enable them to obtain loans and insurance. They were powerful companies which had spent hundreds of millions of dollars in studies and research and were ready to undertake exploitation as soon as an international régime permitted them to do so. They were not only ready but impatient: the Conference had been given to understand that any undue delay in establishing a régime, or the establishment of a régime regarded as contrary to those interests, might lead to the illegal exploitation of the area. Nevertheless, the international community had had the wisdom to refrain from taking hasty measures detrimental to coming generations, and had worked with an eye to the future and to international solidarity, so well expressed in the concept of the common heritage of mankind. Within that framework - which was provided by the Declaration of Principles - it should be possible to fashion an instrument that would be acceptable to all; if it was not, there could be no valid solution for the developing countries.

The meeting rose at 12.35 p.m.